

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO.: 10-103
v.	*	SECTION: "L"
ROBERT BARRIOS	*	VIOLATION: 18 U.S.C. § 371
	* * *	

FACTUAL BASIS

If this matter were to go to trial, the Government would prove beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible exhibits, the following facts to support the allegations in the one-count Bill of Information now pending against defendant **ROBERT BARRIOS**, charging him with conspiring to obstruct justice in the investigation of the Danziger Bridge shooting that occurred on September 4, 2005.

Specifically, Count One charges that defendant **BARRIOS** conspired with other New Orleans Police Department (NOPD) officers, in violation of 18 U.S.C. § 371, to knowingly engage in misleading conduct toward another person with intent to hinder, delay, and prevent the communication of truthful information to a federal law enforcement officer and judge of information relating to the commission and possible commission of a federal offense, in

violation of Title 18, United States Code, Section 1512(b)(3); All in violation of 18 U.S.C. § 371.

The Shootings and the Start of the Conspiracy

In 2005, defendant **BARRIOS** was an officer assigned to NOPD's Fifth District. After Hurricane Katrina struck New Orleans, defendant **BARRIOS** reported to work at the Crystal Palace on Chef Menteur Highway, where the Seventh District had set up a temporary station. On September 4, 2005, in response to a radio call that officers on the I-10 high-rise bridge had taken fire, defendant **BARRIOS** and other NOPD officers loaded into a large Budget rental truck and rode from the Crystal Palace to the nearby Danziger Bridge. Defendant **BARRIOS** rode in the back of the truck, along with many other officers.

When the truck arrived at the bridge, defendant **BARRIOS** heard gunfire in the area of the front of the truck while the truck was still moving. Defendant **BARRIOS** could not see where the gunfire was coming from, but he did not hear any shots hit the outside of the truck. The truck pulled to a complete stop, and officers began to unload from the back as gunfire continued to ring out from the front of the truck. Defendant **BARRIOS** saw Officer A get out of the truck and immediately begin firing a shotgun in the direction of a pedestrian walkway along the side of the road. Defendant **BARRIOS** then saw Officer C get down from the back of the truck and immediately begin firing an AK-47 assault rifle in the same direction. As shots continued to ring out, defendant **BARRIOS** moved to the back of the truck in order to get down out of the vehicle. Defendant **BARRIOS** then saw a black

juvenile running down the bridge on the pedestrian walkway. As the juvenile ran away from officers, headed east-bound down the Danziger Bridge, defendant **BARRIOS** heard a loud bang near his ear and turned to see that Officer B, still in the back of the Budget Truck, had just fired his handgun at the fleeing juvenile. At no time did defendant **BARRIOS** see the juvenile turn toward officers or reach for anything in his waistband. At no time did defendant **BARRIOS** hear Officer B yell any commands or warnings to the juvenile. Officer B later told defendant **BARRIOS** that he had shot at the juvenile, but had missed. At no time did Officer B tell defendant **BARRIOS** that the juvenile had turned toward him or reached for an object in his waistband.

Once defendant **BARRIOS** recovered from the shot that had been fired next to his ear, he climbed down from the back of the truck. As he approached the concrete divider separating the roadway from the walkway, he saw numerous civilians, including two females, lying bloody and wounded on the walkway. He did not see any guns on or near the civilians, and did not perceive any threat from them. Although defendant **BARRIOS** was carrying a shotgun, he did not fire his weapon on the bridge.

Later that day, defendant **BARRIOS** and the other officers returned to the Crystal Palace, where the officers who had fired on the bridge sat at a round table with the Investigator and at least one other supervisor. Defendant **BARRIOS** sat at the table with the shooters, even though he had not fired his gun, because he wanted to back his partner and the other officers. Defendant **BARRIOS** believed that some innocent people had been shot, and

he was concerned that Officer C would be in trouble for having shot multiple rifle rounds at the civilians. Because of this concern, he had decided to lie and say that he had gotten out of the truck right behind Officer C; that he had seen two black males with handguns; and that he had fired his shotgun one time, in self-defense, at the civilians.

Officer C initially told defendant **BARRIOS** that the men and the women on the bridge had been armed, but when defendant **BARRIOS** confronted Officer C about that claim, Officer C admitted that the females were not armed.

The Meeting and the Taped Statements

Between September 4, 2005, and January 25, 2006, Sergeant A discussed with defendant **BARRIOS** and other officers the stories they would all tell about what happened on the bridge. Defendant **BARRIOS** understood that the purpose of these discussions was for the officers to get their stories straight.

On or about January 25, 2006, prior to giving a formal, audiotaped statement, defendant **BARRIOS** attended a meeting called by the Investigator and another Homicide sergeant who had by that time been assigned to investigate the case. The meeting, attended by defendant **BARRIOS** and the shooters (except for Officer A, who had by then resigned from NOPD), was held in the abandoned and gutted-out Seventh District station. At the meeting, the shooters were instructed to make sure they had their stories straight before they gave their formal statements on tape. The officers then discussed their statements before giving their taped interviews.

Immediately after the meeting, defendant **BARRIOS** met with homicide detectives and provided a false account of the shootings that was consistent with the false stories the shooters had just discussed. In that account, defendant **BARRIOS** lied when he said that officers had shouted, “Police!” before the shooting began; when he said he got out of the truck right behind Officer C; when he said that he heard “five or six” shots; when he said that he saw two men with handguns threatening police officers; when he said he fired his shotgun one time in self-defense; and when he said that there were only four other people in the back of the Budget truck. Defendant **BARRIOS** also intentionally misled investigators when he omitted any reference to the fact that Officer B had fired a gun at the back of a juvenile running away down the bridge.

The Federal Investigation

During the federal investigation of this case, defendant **BARRIOS** and other officers learned that Lieutenant M. L., a supervisor who was present at the initial conversation at a round table in the Crystal Palace, had submitted retirement papers to NOPD. Shortly thereafter, Sergeant B, who had been involved in the shooting on the bridge, expressed concern to defendant **BARRIOS** that Lieutenant M. L. might be cooperating with the FBI.

After Lieutenant M. L.’s retirement, Sergeant B told defendant **BARRIOS** that the officers involved in the Danziger Bridge incident all needed to “stick together.”

Miscellaneous Matters

At no point during the investigation of the Danziger Bridge incident did defendant **BARRIOS** make any compelled statement to an NOPD investigator. At no point did defendant **BARRIOS** learn of any administrative interviews done in the Danziger Bridge investigation.

Defendant **BARRIOS**, like every sworn officer with NOPD, had been trained about the proper use of physical force, including deadly force, and about the consequences for a use of excessive force. The defendant, along with every other sworn NOPD officer, was taught that one of the consequences of an excessive use of force was that the FBI could investigate the incident as a criminal matter. The defendant and every other sworn NOPD officer also learned that an incident of excessive force could result in a federal civil suit and/or criminal prosecution in federal court.

Defendant **BARRIOS** never heard anyone mention a suspect who had gotten away during the incident on the Danziger Bridge, and never heard anyone mention a civilian on the bridge with an assault rifle. And at no point did anyone ever mention Lance Madison having admitted that either he or his brother had possessed or fired a gun on the bridge that day.

Both the Government and the defendant, **ROBERT BARRIOS**, do hereby stipulate and agree that the above facts are true, and that they set forth a sufficient factual basis for the crime to which the defendant is pleading guilty. Both the government and the defendant also

agree that this factual basis does not contain all of the relevant information known to the defendant. This is a sufficient factual basis, but it is not an exhaustive statement by the defendant.

READ AND APPROVED this _____ day of April, 2010.

ROBERT BARRIOS
Defendant

DATE

ROBERT GLASS
Counsel for Defendant

DATE

BARBARA "BOBBI" BERNSTEIN
Deputy Chief, Civil Rights Division
U.S. Department of Justice

DATE

JULIA K. EVANS
Assistant United States Attorney

DATE